

Before the  
Federal Communications Commission  
Washington, DC 20554

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In re )  
Revision of the Commission's Rules to Ensure )  
Compatibility with Enhanced 911 Emergency )  
Calling Systems )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

CC Docket No. 94-102

To: The Commission

**CORR WIRELESS COMMUNICATIONS, LLC'S  
EMERGENCY PETITION FOR SHORT-TERM WAIVER**

Corr Wireless Communications, LLC ("Corr"), by its attorneys, hereby reluctantly petitions the Commission to grant a brief and limited waiver of the deadline for provision of Phase II service imposed by Section 20.18 of the rules to enable Corr to complete implementation of its Phase II system. As will be set forth below, Corr has been energetically engaged in installing the system components necessary to provide Phase II service in anticipation of the imminent September 1 deadline. However, it now appears that, due to circumstances beyond Corr's control, it cannot be sure that the system will be on-line as of September 1. Corr is therefore requesting a waiver of the September 1 deadline for a period not to exceed 45 days.

**I. BACKGROUND**

For some years now, Corr has been advising the Commission in various forums of the enormous hurdles which the E-911 Phase II requirements pose for smaller CMRS carriers. These hurdles include (1) heavy capital expenditures which not only fall disproportionately upon smaller carriers but which also must be recovered from a far smaller customer base than larger

carriers enjoy, (2) technical difficulties in achieving the accuracy levels prescribed by the rules due to the lack of triangulation common to widely dispersed rural CMRS networks, and (3) the fact that smaller carriers cannot effectively drive the production by equipment manufacturers of Phase II systems tailored to their needs. In addition to these challenges common to Tier III carriers as a group, Corr faces the additional burden of being a TDMA carrier in a world which is rapidly moving to a different standard. Corr nevertheless has accepted the obligations entailed by the Phase II rules and has moved diligently to develop a solution to the Phase II problem which would permit provision of such service by September 1, as contemplated by the *Non-Nationwide Carrier Order*.<sup>1</sup>

The evolution of Corr's present predicament can be briefly summarized. In adopting the Phase II rules, the Commission believed that smaller carriers could avoid the large expense associated with the network solution by going to a handset-based solution. This would effectively shift much of the cost of the technology for locating E-911 callers to the purchasers of GPS-equipped handsets. Unfortunately, the Commission seems to have been unaware that the handset-based solution was not available for TDMA carriers. No handset manufacturer was willing to develop handsets for a technology which was being phased out. Hence, TDMA carriers including Corr, AT&T Wireless, and Cingular had to look for other answers. The dynamics of the equipment market made it essential that specific Phase II technologies be committed to by major carriers before the manufacturers would commit the resources to fully develop such a technology and move into large-scale production. As a small, rural carrier, Corr had difficulty even getting manufacturers to talk to it about prices, delivery dates, etc. and when even tentative price quotes were obtained, they were confiscatory in their magnitude.

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<sup>1</sup> Order to Stay, FCC 02-210, CC Docket No. 94-102 (rel. July 26, 2002)

Eventually, Corr decided in late 2002, like AT&T and Cingular, to transition its network from TDMA to GSM and to use an E-OTD network-assisted handset-based solution. Unfortunately, when the larger carriers undertook testing of this system in conjunction with the system's major proponent, they were dissatisfied with the results. When those carriers decided to shift to a different solution, the manufacturer confessed that it was not willing to undertake the development costs associated with this solution in the absence of a commitment from a major carrier. Thus, Corr suddenly found itself in the spring of 2003 with no vendor willing to deliver the solution which it had adopted. (Significantly, the Commission itself had been led to believe that E-OTD was a viable handset based solution, and its implementation schedule was presumably premised in part on that supposition. That premise has turned out to be erroneous.) The E-OTD rug had literally been pulled out from underneath Corr at almost the eleventh hour.

Corr immediately had to go into high gear to adopt and implement a viable alternative. It began a crash program of negotiating the delivery of network-based solutions in the late spring and early summer. It finalized contracts in record time with a major equipment vendor to deliver a working system no later than September 1. While the schedule would be tight, Corr believed as recently as its August 1 Interim Report that it could be up and running by September 1 – assuming everything went according to plan. The abrupt loss of the E-OTD option, however, had left Corr with virtually no breathing room to make up for any snags in the schedule.

In the meantime, Corr has received requests for Phase II service from PSAPs in five counties in Alabama where it provides TDMA service: Limestone, Madison, Morgan, Cullman and Etowah. Corr currently provides Phase I service in these counties as well as Blount and Marshall Counties, which have not requested Phase II.

## **II. THE PROBLEM**

Two serious and wholly unexpected problems arose in mid-August which threaten Corr's ability to be in service by September 1. First, the contractor responsible for installation and optimization of the Phase II system had been directed by Corr to order the circuits which interconnect the measurement server with the location server that delivers E-911 information to PSAPs. Corr learned in mid-August that these circuits had not in fact been ordered from the appropriate IXC. Upon learning of this development, Corr immediately ordered the circuits itself for expedited turn-up. The carrier would not commit to a turn-up date earlier than September 2. While Corr is continuing to press for earlier delivery of the circuits, it cannot be sure at this point that the circuits will be available by September 1. And even if available, Corr would have to test the circuits and the network connections before bringing the system on-line. As of this date, the circuits have not yet been delivered, and it is therefore increasingly unlikely that Corr will be able to meet the deadline. Corr continues to do everything in its power to provide the service by September 1, but unless the requisite circuits are available and fully tested, it will be impossible.

The second problem relates to the Location Measurement Units (LMUs) that are situated at each cell site. These units are essential to the process of fixing the location of E-911 callers. Corr discovered after ordering this equipment that it was slightly too large to physically fit within the standard equipment cabinets at its cell sites. Corr has therefore ordered technicians and contractors to install auxiliary cabinets at every cell site to house the LMUs. This wholly unexpected development has taxed Corr's resources to the utmost. Crews have been working literally six and – sometimes seven – days a week to accomplish the necessary installations, but at the same time there is an operating cellular system which must be

operated and maintained by many of these same people. By dint of these extraordinary efforts, the auxiliary cabinets have now been installed and wired, so installation of the LMUs can begin next week.

As of this date, Corr is still attempting to complete installation and testing by September 1, but it is unclear whether it will be able to accomplish that. Given the promised date of delivery of the interconnection circuits and the progress toward installation of the auxiliary cabinets, Corr has a high level of confidence that the system can be fully operational no later than October 15. We emphasize that this is an outside date; Corr will continue to use all available resources to complete installation and testing as soon as possible, with September 15-30 being the most likely date for completion.

### **III. A LIMITED WAIVER IS JUSTIFIED**

Corr has been mindful of the Commission's statement in the *Non-Nationwide Carrier Order* that it did not intend to modify the schedules set forth in that Order "absent extraordinary circumstances." It was for that reason that Corr adopted preliminary plans almost a year ago so that it would be ready to provide Phase II well in advance of the September 1 deadline. It had no intention of seeking any further extensions of time and anticipated no need to do so. The circumstances set forth above have nevertheless conjoined to make this request necessary.

The Commission requires a waiver proponent to demonstrate either (a) that the underlying purpose of the rule would not be served, or would be frustrated by its application in this particular case, or (b) that the unique facts and circumstances of this particular case render application of the rule inequitable, unduly burdensome, or otherwise contrary to the public

interest, or that the proponent has no reasonable alternative. 47 C.F.R. 1. 925. The second prong of this test clearly applies here.

**A. Corr has undertaken significant investment and effort with the object of providing Phase II service by September 1.**

The history outlined above demonstrates that Corr has not only used its best efforts to arrive at a viable Phase II solution but has gone above and beyond the call of duty. Handicapped at the outset by being a small rural carrier with a TDMA system, Corr diligently worked with every available equipment vendor in an effort to develop a solution which would be both affordable and implementable on the timetable established by the Commission. First, while an eventual transition to GSM technology was perhaps inevitable, Corr accelerated its plans to transition to that technology by a year so that it could take advantage of the handset-based solutions which manufacturers had promised as recently as this year. The purchase and installation of a GSM system necessitates overlaying that technology over the existing TDMA system, and then maintaining two parallel systems while gradually transitioning customers to the new system. This duplicative process is obviously costly, but Corr undertook the system evolution so that it would be able to meet the Phase II requirements in a timely fashion. The abrupt abandonment of E-OTD technology by Nortel leaves a useful GSM system in place, but it unfortunately does not have the intended result of facilitating the delivery of Phase II; to the contrary, it complicates that process somewhat.

**B. The withdrawal of the E-OTD option was wholly unexpected and beyond Corr's control.**

As a small carrier, Corr must of necessity swim in the wake of the larger carriers who drive vendor development. Corr had decided to use the Nortel E-OTD system which would (assuming it met the Commission's accuracy requirements) have permitted full

compliance with the Phase II schedule established by the *Non-Nationwide Carrier Order*. The complete collapse of that alternative came as a surprise to Corr, as it must have to the Commission as well. Not only did this development cause Corr to have to scramble to find and implement another plan in a matter of several months, but it also required far greater up-front capital expenditures than Corr had anticipated. Corr nevertheless acted with unprecedented alacrity to negotiate for a new system in a matter of a few weeks. Under ordinary circumstances, a basic network acquisition of this kind involving millions of dollars might take many months or even a year of careful consideration and evaluation. Instead, Corr virtually sprinted through the procurement process in an effort to comply with the rule on time.

**C. The two sources of delay were unexpected and Corr has taken immediate, urgent remedial action.**

Given the urgency and haste with which the implementation of the Phase II system is being conducted, it is perhaps understandable that there would be a few glitches. Here Corr specifically delegated to its contractor the task of ordering the necessary interconnection circuits. It remains unclear how the contractor failed to place the order, but as soon as the omission was discovered, Corr took immediate action to correct the problem and is continuing to use its best efforts to get the circuits up by September 1. By the same token, the size of the LMUs was a factor that could perhaps have been identified and planned for if the entire process were not being done on so expedited a schedule. Again, however, once the problem was discovered, Corr took prompt, effective, and very costly steps to deal with the problem.

**D. The requested waiver is very brief.**

As noted, Corr is well along in its implementation program, and but for these unexpected developments, could be providing E-911 Phase II on the September 1. As it is,

Corr is continuing to use every means at its disposal to complete the process as quickly as possible. At this point, its best estimate is that implementation and testing can be done by mid-September. However, to avoid the need for a possible further request, it is seeking a 45-day extension to be absolutely sure that the system is on-line. While we appreciate the Commission's frustration with the repeated delays in the provision of Phase II service, the requested delay of a few weeks to complete the very tail-end of the process is almost minuscule in relation to the nearly ten-year process that has brought us to this point.

**E. Corr will be providing Phase I service in the interim.**

As Corr has explained to the Commission in another context, Corr has been providing TDMA Phase I service in the counties which have requested it for several years. During that time there have been no instances to our knowledge where emergency personnel were unable to locate a 911 caller because of the lack of more precise location information. Corr has worked with emergency personnel to locate callers when there has been some doubt about location, with happy results, and it will continue to do so. In rural areas, there is less of a need for extreme precision in emergency calls because calls tend to come in from highways where there is little room for confusion about the whereabouts of the caller. Thus, it is unlikely that a few weeks' delay in provision of Phase II will cause any harm to the public.

The situation presented here is strikingly similar to that presented in *Hardy Telecommunications, Inc.*, 13 FCC Rcd 6568 (1998). There a small LEC was under a Commission-imposed deadline to install a switch that could accommodate four-digit carrier ID codes. It had already been granted one extension, but it found that the equipment it needed was not readily available from the manufacturer. In addition, it discovered four months before the deadline that the racks necessary to house the equipment were not compatible with the space




limitations of its switch site. Because Hardy had been diligent in trying to get the necessary equipment and get it installed by the deadline, the Commission ruled that a waiver was justified, and it granted a further two-month extension of the deadline. As with Hardy, Corr's timely plans to install an E-OTD system were foiled by the failure of the manufacturer to follow through. As with Hardy, Corr was unexpectedly confronted with space limitations which affected its ability to install equipment quickly. As with Hardy, the proposed delay is two months or less. And as with Hardy, there should be little negative impact on the public from the brief delay. The same result should therefore obtain here.

#### **IV. CONCLUSION**

Under these circumstances, it is clear that Corr has no reasonable alternative to a slight waiver of the rule. It has done everything reasonably possible to ensure that Phase II service gets to its PSAPs by the deadline. Due to a combination of circumstances beyond its control, it found itself forced to accomplish in a few months what has taken other carriers with greater resources years to accomplish. It is committed to the earliest possible completion of the process. Nevertheless, it would be inequitable and burdensome (if not impossible) to require Corr to complete the installation in the days remaining before September 1. The limited waiver outlined above is therefore respectfully requested.

Respectfully requested,

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